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State of California by and through California
Highway Patrol and Officer Ramon Silva

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SANDRA KIRKMAN AND
CARLOS ALANIZ,
INDIVIDUALLY AND AS
SUCCESSORS-IN-INTEREST TO
JOHN ALANIZ, DECEASED,

Plaintiff,

v.

STATE OF CALIFORNIA;
RAMON SILVA; AND DOES 1-10,
INCLUSIVE,

Defendant.

Case No.: 2:23-cv-07532-DMG-SSC

**SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS
AND CONCLUSIONS OF LAW IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT BY
DEFENDANTS STATE OF
CALIFORNIA BY AND THROUGH
CALIFORNIA HIGHWAY PATROL
AND OFFICER RAMON SILVA**

Date: February 28, 2025
Time: 2:00 p.m.
Dept: 8C
Judge: Hon. Dolly M. Gee

Complaint Filed: July 28, 2023
Trial Date: April 15, 2025

Defendants State of California by and through California Highway Patrol and Officer Ramon Silva submit the following statement of undisputed material facts and reference to supporting evidence and conclusions of law in support of their summary judgment motion:

UNDISPUTED FACT	SUPPORTING EVIDENCE
1. On May 4, 2022, Alanez jumped in front of a big rig truck traveling	Exh. 1: Truck Video: 1:40-1:50.

1 2 3 4	around 54 mph on westbound I-105.	Exh. 2: Acosta Deposition, pp. 7:10-22, 8:8-9:6. Exh. 3: Burtran Statement, pp. 5:25-7:3, 14:3-24.
5 6	2. Alaniz landed in a traffic lane requiring a driver to stop.	Exh. 1: Truck Video: 1:50-2:00. Exh. 2: Acosta Deposition, p. 9:7-13.
7 8 9	3. Alaniz eventually got up and tried to put his head under the wheels of another big rig.	Exh. 1: Truck Video: 4:20-4:55. Exh. 2: Acosta Deposition, pp. 15:20-16:25.
10 11 12 13 14 15 16	4. Someone called 911 around 11:18 a.m. to report the incident.	Exh. 2: Acosta Deposition, p. 10:23-11:10. Exh. 3: Burtran Statement, p. 20:12-21:9. Exh. 4: 911 Transcript, pp. 1-20. Exh. 5: 911 Recordings: 0:00-20:55.
17 18 19 20 21 22 23 24 25 26 27	5. Starting around 11:20 a.m., information was dispatched by CHP regarding the location and incident.	Exh. 6: Incident Log, p. .3 Exh. 7: Van Dragt Deposition, pp. 9:1-7, 11:11-12:3. Exh. 8: Silva Deposition, pp. 22:19-24:1. Exh. 9: Silva DOJ Statement, pp. 10:1-11:25, 19:6-20:6. Exh. 10: Dispatch Transcript, pp. 2-9. Exh. 11: Dispatch Recordings: 0:00-11:46.
28	6. Alaniz eventually walked down the	Exh. 1: Truck Video: 4:55-6:15.

1 2 3 4 5 6	shoulder with a witness following fearing Alaniz would try to kill himself by jumping in front of another car.	Exh. 2: Acosta Deposition, pp. 9:4-10:22, 11:19-22. Exh. 4: 911 Transcript, pp. 1-20. Exh. 5: 911 Recordings: 0:00-20:55.
7 8 9 10	7. Alaniz pushed the driver aside and jumped in front of another truck.	Exh. 2: Acosta Deposition, pp. 11:19-12:11, 12:25-13:16, 14:12-14. Exh. 12: Verdugo Deposition, pp, 8:3-9:5.
11 12 13	8. Alaniz charged at the truck striking it with his head, breaking the front grill and denting the hood.	Exh. 12: Verdugo Deposition, pp. 12:17-14:12. Exh. 13: Truck Photo.
14 15 16 17	9. Alaniz got up and continued to walk down westbound I-105 where he got stuck by a van.	Exh. 2: Acosta Deposition, pp. 13:20-14:17. Exh. 12: Verdugo Deposition, pp. 8:20-23, 14:13-15:1.
18 19 20	10. Alaniz ignored the witness and appeared to look for cars to jump in front of.	Exh. 2: Acosta Deposition, p. 17:4-16.
21 22	11. The witness described Alaniz as “full of adrenalin” and “wanting to kill himself.”	Exh. 2: Acosta Deposition, pp. 17-22-18:9.
23 24 25 26 27 28	12. Officers Silva arrived on scene around 11:31 a.m.	Exh. 6: Incident Log, p. 4([63]). Exh. 10: Dispatch Transcript, pp. 9-10. Exh. 11: Dispatch Recordings: 12:12-12:37.

1		Exh. 14: BWC: 6:20-6:40.
2		Exh. 19: Blake Video File: 6:20-6:40.
3		
4	13. Silva had previously requested air support for assistance.	Exh. 9: Silva DOJ Statement, pp. 20:18-22:12.
5		
6	14. Silva described the scene as “chaotic”, “tense” and “uncertain.”	Exh. 9: Silva DOJ Statement, pp. 12:5-13:12, 24:14-25:6.
7		
8	15. Silva was concerned.	Exh. 9: Silva DOJ Statement, pp. 19:25-20:17.
9		
10	16. Silva reported to dispatch that Alaniz had his hands in his pocket.	Exh. 6: Incident Log, p. 4 ([64]).
11		Exh. 9: Silva DOJ Statement, pp. 13:13-18, 14:24-15:4, 5:22-24.
12		
13		Exh. 10: Dispatch Transcript, p. 12.
14		Exh. 11: Dispatch Recordings: 13:20-13:42.
15		
16		Exh. 14: BWC: 6:40-6:45.
17		Exh. 19: Blake Video File: 6:40-6:45.
18		Exh. 20: Blake Video File: 0:00-0:12.
19		
20		
21	17. Alaniz was between 50-100 feet from Silva at that point.	Exh. 9: Silva DOJ Statement, p. 25:7-21.
22		
23	18. Silva planned on waiting for back up.	Exh. 9: Silva DOJ Statement, pp. 13:18-21, 14:24-15:4.
24		
25	19. Silva’s plan was to secure Alaniz and remove him from the roadway.	Exh. 9: Silva DOJ Statement, pp. 13:24-14:3.
26		
27	20. Van Dragt arrived in his patrol car around 20-30 seconds after Silva.	Exh. 8: Silva Deposition, p. 22:11-18.
28		

1		Exh. 6: Incident Log, p. 4 ([65]).
2		Exh. 7: Van Dragt Deposition, pp.
3		9:1-23, 11:11-23.
4		Exh. 14: BWC: 6:50-6:55.
5		Exh. 19: Blake Video File: 6:50-6:55.
6		
7	21. Van Dragt positioned his vehicle	Exh. 9: Silva DOJ Statement, pp.
8	at an angle to the shoulder between	14:4-20 32:18-24.
9	Alaniz and Silva, about 10-15 feet in	Exh. 8: Silva Deposition, pp. 32:16-
10	front of Silva and in his line of sight.	33:1, 35:14-36:12.
11		Exh. 14: BWC: 6:50-7:00.
12		Exh. 18: Blake Video File: 0:00-0:10.
13		Exh. 19: Blake Video File: 6:50-7:00.
14		Exh. 20: Blake Video File: 0:00-0:12.
15		
16	22. Van Dragt's plan was to secure	Exh. 7: Van Dragt Deposition,
17	and remove Alaniz from the roadway.	p.16:5-15.
18		
19	23. Van Dragt got out of his car and	Exh. 7: Van Dragt Deposition, pp.
20	saw Alaniz standing on the shoulder	17:9-18:3, 20:10-14.
21	with his hands in his pockets.	Exh. 14: BWC: 6:55-7:00.
22		
23	24. Van Dragt believed Alaniz was a	Exh. 15: Van Dragt CHP Statement,
24	potential threat.	pp. 12:19-13:6.
25		
26	25. Van Dragt had unholstered his	Exh. 8: Silva Deposition, pp. 36:13-
27	gun and moved toward the back of his	22, 37:9-13.
28	car toward Alaniz.	Exh. 14: BWC: 6:55-7:00.
		Exh. 19: Blake Video File: 6:55-7:00.

1		Exh. 20: Blake Video File: 0:00-0:12.
2	26. Van Dragt ordered Alaniz to “let	Exh. 7: Van Dragt Deposition, pp.
3	me see your hands.”	20:25-22:5.
4		Exh. 17: MVARs: 7:00-7:03.
5		Exh. 18: Blake Video File: 0:15-0:18.
6	27. Alaniz initially complied but then	Exh. 8: Silva Deposition, p. 39:6-10,
7	put his hands back into his pockets.	18-22.
8		Exh. 7: Van Dragt Deposition, pp.
9		20:25-22:5.
10	28. Silva unholstered his gun.	Exh. 8: Silva Deposition, p. 65:13-15.
11		Exh. 9: Silva DOJ Statement, pp.
12		14:24-15:9.
13	29. Silva told Alaniz to “show his	Exh. 8: Silva Deposition, pp. 40:19-
14	hands.”	41:13, 65:11-18.
15		Exh. 9: Silva DOJ Statement, pp.
16		15:10-15, 50:11-19.
17		Exh. 14: BWC: 6:55-7:00.
18	30. Alaniz immediately started	Exh. 2: Acosta Deposition, pp. 21:11-
19	running at Van Dragt while removing	22:5.
20	an object from his pocket and getting	Exh. 7: Van Dragt Deposition, pp.
21	into a “shooting platform” as Van	22:21-24:6.
22	Dragt retreated toward the front of his	Exh. 8: Silva Deposition, pp. 41:20-
23	car away from Alaniz.	42:10, 42:18-43:11.
24		Exh. 9: Silva DOJ Statement, p. 15:4-
25		20.
26		Exh. 14: BWC: 6:57-7:04.
27		
28		

1		Exh. 19: Blake Video File: 6:57-7:04.
2		Exh. 20: Blake Video File: 0:00-0:12.
3		Exh. 21: Blake PDF File.
4		Exh. 22: Blake PDF File.
5		
6	31. Silva believed he saw a “the	Exh. 8: Silva Deposition, pp. 58:17-
7	barrel of a gun” or a “cylindrical silver	20, 60:8-13 67:19.
8	thing” in Alaniz’s hands.	Exh. 9: Silva DOJ Statement, pp.
9		15:21-16:1, 28:21-29:13.
10		Exh. 16: Silva CHP Statement, pp.
11		19:23-20:6.
12		Exh. 30: Photo of Vape Pen
13		
14	32. Silva feared for Van Dragt’s life.	Exh. 9: Silva DOJ Statement, pp.
15		25:22-27:12, 29:14-23.
16		Exh. 16: Silva CHP Statement, pp.
17		16:4-12, 17-24.
18	33. Alaniz and Van Dragt were about	Exh. 9: Silva DOJ Statement, p.
19	10-12 feet from each other.	27:13-22.
20	34. Van Dragt did not know if Alaniz	Exh. 7: Van Dragt Deposition, pp.
21	was pointing a gun or knife at him but	24:15-17, 26:23-27:15, 46:13-18.
22	could not confirm it was a gun.	Exh. 15: Van Dragt CHP Statement,
23		p. 15:17-16:7.
24	35. Because Van Dragt couldn’t	Exh. 7: Van Dragt Deposition, pp.
25	positively recognize the object as a	24:7-21, 26:23-28:11, 36:15-22.
26	gun, he did not use deadly force.	
27	36. Van Dragt still feared injury or	Exh. 15: Van Dragt CHP Statement,
28	death from Alaniz.	p. 16:15-23.

1 2 3 4 5 6 7 8 9 10 11	37. Silva momentarily lost sight of Alaniz behind Van Dragt's car.	Exh. 8: Silva Deposition, pp. 43:12-44:4, 65:25-66:10, 66:19-67:2. Exh. 9: Silva DOJ Statement, pp. 15:21-16:3, 31:13-32:9; Exh. 14: BWC: 7:02-7:04. Exh. 16: Silva CHP Statement, pp. 16:25-17:20. Exh. 19: Blake Video File: 7:02-7:04. Exh. 20: Blake Video File: 0:04-0:06.
12 13 14 15 16	38. Silva feared for Van Dragt's life and his own.	Exh. 9: Silva DOJ Statement, pp. 15:21-17:15, 29:20-23, 31:13-32:8, 32:25-33:9. Exh. 16: Silva CHP Statement, p. 17:21-23.
17 18	39. Silva's focus was on where Alaniz would next appear right in front of him.	Exh. 9: Silva DOJ Statement, pp. 32:25-33:9.
19 20	40. Van Dragt thought Alaniz was going to attack him.	Exh. 7: Van Dragt Deposition, pp. 24:4-21, 39:12-14.
21 22 23 24 25 26 27 28	41. Van Dragt retreated toward the front of his car away from Alaniz while holstering his gun and drawing his Taser.	Exh. 7: Van Dragt Deposition, pp. 37:4-11; 38:2-16. Exh. 8 - Silva Deposition, p. 44:8-13. Exh. 14: BWC: 6:57-7:04. Exh. 19: Blake Video File: 6:57-7:04. Exh. 20: Blake Video File: 0:00-0:05.

1 2 3 4 5 6 7 8 9	42. Van Dragt ordered Alaniz to get on the ground.	Exh. 2 - Acosta Deposition, pp. 20:18-21:10. Exh. 15 - Van Dragt Deposition, p. 39:10-14. Exh. 17 - MVARs: 7:00-7:07. Exh. 18: Blake Video File: 0:12-0:19. Exh. 20: Blake Video File: 0:00-0:07.
10 11 12 13 14 15 16	43. Van Dragt fired the Taser when Alaniz was 3-5 feet away from him as he was retreating around his car.	Exh. 7: Van Dragt Deposition, 36:23-37:1, 37:17-39:14, 52:14-17. Exh. 14: BWC: 7:04. Exh. 17: MVARs: 7:07-7:09. Exh. 18: Blake Video File: 0:18-0:22. Exh. 19: Blake Video File: 7:04.
17 18	44. Van Dragt did not hear gunshots before deploying his Taser.	Exh. 7: Van Dragt Deposition, p. 39:23-25.
19 20 21 22	45. Silva heard what he thought was a gunshot from the direction of Van Dragt and Alaniz and saw Van Dragt to a "weird side step thing."	Exh. 8: Silva Deposition, pp. 51:1-52:9. Exh. 9: Silva DOJ Statement, p. 17:18-23.
23 24 25 26	46. A Taser deployment can sound like a gunshot and can be difficult to distinguish.	Exh. 8: Silva Deposition, pp. 51:1-52:3. Exh. 7: Van Dragt Deposition, p. 42:3-23.
27 28	47. Silva did not know Van Dragt transitioned to a Taser.	Exh. 8: Silva Deposition, p. 50:23-25.

1	48. Van Dragt did not know if the	Exh. 7: Van Dragt Deposition, p.
2	Taser darts hit Alaniz because he	44:6-11.
3	deployed it “on the move.”	
4	49. Alaniz came around the corner of	Exh. 8: Silva Deposition, pp. 13:22-
5	Van Dragt’s car in a “shooter’s	14:1, 51:1-5, 52:4-23.
6	stance” pointing his outstretched arms	Exh. 9: Silva DOJ Statement, pp.
7	with hands together while moving	17:13-18:5, 35:7-36:7, 39:1-18.
8	toward the officers.	Exh. 14: BWC: 7:02-7:04.
9		Exh. 16: Silva CHP Statement, pp.
10		17:24-18:15.
11		Exh. 19: Blake Video File: 7:02-7:04.
12		Exh. 20: Blake Video File: 0:04-0:06.
13		Exh. 23: Blake PDF File.
14		Exh. 24: Blake PDF File.
15		Exh. 25: Zhou AG Statement, pp.
16		4:20-25.
17		Exh. 26: Horbino AG Statement, pp.
18		2:23-3:9, 5:9-16, 8:19-22.
19		
20	50. Believing Alaniz had a gun and	Exh. 8: Silva Deposition, pp. 58:17-
21	was a threat, Silva used deadly force	20, 60:8-13.
22	against Alaniz.	Exh. 9 - Silva DOJ Statement, pp.
23		15:21-16:1, 28:21-29:13, 43:16-22,
24		44:13-45:3.
25		Exh. 14: BWC: 7:04-7:06.
26		Exh. 16: Silva CHP Statement, pp.
27		19:23-20:6.
28		

1		Exh. 18: Blake Video File: 0:15-0:22.
2		Exh. 19: Blake Video File: 7:04-7:06.
3		Exh. 20: Blake Video File: 0:00-0:12.
4		Exh. 23: Blake PDF File.
5		Exh. 24: Blake PDF File.
6		
7	51. When Silva fired his gun, he was	Exh. 8: Silva Deposition, pp. 66:19-
8	about five feet from Alaniz who was	67:1.
9	moving forward.	Exh. 14: BWC: 7:04-7:06.
10		Exh. 19: Blake Video File: 7:04-7:06.
11		Exh. 20: Blake Video File: 0:00-0:12.
12		Exh. 23: Blake PDF File.
13		Exh. 24: Blake PDF File.
14		
15		
16	52. Silva thought he was going to get	Exh. 9: Silva DOJ Statement, p. 45:4-
17	shot if he did not use deadly force.	8.
18	53. Silva's intent when he fired was	Exh. 9: Silva DOJ Statement, p.
19	to neutralize a lethal threat.	17:18-23.
20	54. Silva did not believe he had any	Exh. 9: Silva DOJ Statement, pp.
21	other options.	33:10-35:6, 48:20-49:15.
22	55. Van Dragt reported "shots fired"	Exh. 6: Incident Log, p. 4([67])).
23	around 11:32 a.m.	Exh. 8: Silva Deposition, p. 73:13-15.
24		Exh. 10: Dispatch Transcript, p. 10.
25		Exh. 11: Dispatch Recordings: 13:52-
26		15:05.
27		Exh. 17: MVARs: 7:12-7:14.
28		

1	56. About 30 seconds elapsed	Exh. 14: BWC: 6:35-7:04.
2	between Silva's arrival (stopping) and	Exh. 19: Blake Video File: 6:35-7:04.
3	the shooting.	
4	57. Officers provided Alaniz with	Exh. 6: Incident Log, p. 4 ([69-85]).
5	medical care for about 4 minutes until	Exh. 7: Van Dragt Deposition, pp.
6	the fire department arrived and took	54:2-12, 54:21-55:2.
7	over at 11:36 a.m.	Exh. 8: Silva Deposition, p. 27:17-23.
8		Exh. 10: Dispatch Transcript, p. 14.
9		Exh. 11: Dispatch Recordings: 19:57-
10		20:13.
11		Exh. 27: LA County Records.
12		Exh. 28: McCormick Records.
13		
14	58. Paramedics took Alaniz to the	Exh. 27: LA County Records.
15	hospital where he was pronounced	Exh. 28: McCormick Records.
16	dead at 12:08 p.m.	
17	59. An open eyeglass case holding a	Exh. 7: Van Dragt Deposition, pp.
18	glass pipe was found at the scene that	58:24-61:10 and exhibits 3-5 to his
19	Dragt believes was in Alaniz' hands	deposition.
20		Exhs. 29, 31-35.
21	60. A black vape pen was also found	Exhs. 29, 30.
22	at the scene.	
23	61. Plaintiffs' expert concludes that	Exh. 36: DeFoe Rule 26 Report
24	Alaniz was intent on committing	Excerpt.
25	"suicide by cop", which is where "a	
26	suicidal individual deliberately	
27	behaves in a threatening manner with	
28	the intent to provide a lethal response	
	from a law enforcement officer to end	
	their own life."	

CONCLUSIONS OF LAW

Defendant Ramon Silva is entitled to qualified immunity on parents' first claim under 42 U.S.C. § 1983 asserting a Fourth Amendment violation on Alaniz's behalf because Silva's use of deadly force was objectively reasonable.

Defendant Ramon Silva is entitled to qualified immunity on parents' first claim under 42 U.S.C. § 1983 asserting a Fourth Amendment violation on Alaniz's behalf because no "clearly established" law existed on May 4, 2022 putting all reasonable law enforcement officers on clear notice that Silva's use of deadly force was unconstitutional under the specific circumstances confronting Silva.

Defendant Ramon Silva is entitled to qualified immunity on parents' third claim under 42 U.S.C. § 1983 asserting a violation of their Fourteenth Amendment rights to familial association with Alaniz because Silva did not violate Alaniz's Fourth Amendment rights as his use of deadly force was objectively reasonable.

Defendant Ramon Silva is entitled to qualified immunity on parents' third claim under 42 U.S.C. § 1983 asserting a violation of their Fourteenth Amendment rights to familial association with Alaniz because Silva did not act with an intent to harm Alaniz unrelated to a legitimate law enforcement activity.

Defendant Ramon Silva is entitled to qualified immunity on parents' third claim under 42 U.S.C. § 1983 asserting a violation of their Fourteenth Amendment rights to familial association with Alaniz because no "clearly established" law existed on May 4, 2022 putting all reasonable law enforcement officers on clear notice that Silva's use of deadly force against Alaniz under the circumstances confronting Silva violated parent's Fourteenth Amendment rights.

Defendants Ramon Silva and California Highway Patrol are entitled to judgment on parents' fourth claim for battery under California law because Silva's use of deadly force against Alaniz was objectively reasonable.

Defendants Ramon Silva and California Highway Patrol are entitled to judgment on parents' fifth claim negligence under California law because Silva's

1 use of deadly force was objectively reasonable under the totality of circumstances
2 and no evidence exists to support any other alleged theory of negligence liability.

3 Defendants Ramon Silva and California Highway Patrol are entitled to
4 judgment on parents' sixth claim under California's Bane Act because Silva did
5 not violate Alaniz's Fourth Amendment rights.

6 Defendants Ramon Silva and California Highway Patrol are entitled to
7 judgment on parents' sixth claim under California's Bane Act because Silva did
8 not have a specific intent to violate Alaniz's Fourth Amendment rights.

9
10 Dated: January 24, 2025

Dean Gazzo Roistacher LLP

11
12 By: /s/ Lee H. Roistacher

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16 California Highway Patrol and
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